

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2022 APR 25 A 9:50

CLERK SO. D. S. K. OF GA.

JOSH WILLIS, Individually and *
as the Sole Heir and as Executor *
to the Estate of Sandra Ogle, *

Plaintiff,

CV 321-054

v.

WHEELER COUNTY SHERIFF'S *
DEPARTMENT and SHERIFF RANDY *
RIGDON, Individually and in his *
Official Capacity as Sheriff, *

Defendants.

O R D E R

Before the Court is Defendants' motion to dismiss the case, which is brought pursuant to 42 U.S.C. § 1983, as untimely based upon the applicable statute of limitations.

The incident giving rise to Plaintiff's claims occurred on December 2, 2018. Given the two-year statute of limitations,¹ the lawsuit should have been filed by December 2, 2020. However, the Supreme Court of Georgia tolled the statute of limitations from March 13 to July 14, 2020 through its Orders Declaring Statewide

¹ Section 1983 does not have a statute of limitations. Instead, federal courts apply the forum state's statute of limitations applicable to personal injury actions. *Berry v. Keller*, 157 F. App'x 227, 228-29 (11th Cir. 2005). The personal injury statute of limitations in Georgia is two years. *Id.* (citing O.C.G.A. § 9-3-33).

Judicial Emergency entered in response to the COVID-19 pandemic. (See generally [https://www.gasupreme.us/court-information/court corona info/](https://www.gasupreme.us/court-information/court-corona-info/) (last visited on Apr. 20, 2022).) Taking into account this 122-day toll, the statute of limitations did not run in this case until April 3, 2021. Plaintiff filed suit on September 14, 2021. Thus, the case is time-barred.

In response, Plaintiff laments that the Supreme Court of Georgia "reimposed the deadlines in July 2020" and appeals to the Court to deny the motion for excusable neglect "[g]iven the unique circumstances surrounding this global pandemic." (Pl.'s Resp. to Mot. to Dismiss, Doc. No. 9, at 2.) The Court has reviewed the Supreme Court of Georgia's Judicial Emergency Orders and finds that there is no ambiguity in the Fourth Extension Order reimposing the deadlines for litigants, including statutes of limitations. In fact, subsequent Judicial Emergency Orders reiterate that the litigant's deadlines were reimposed effective July 14, 2020. Thus, the Court cannot countenance any argument of excusable neglect here.

Upon the foregoing, Defendants' motion to dismiss the case as barred by the statute of limitations (doc. no. 8) is **GRANTED**.² The Clerk shall **CLOSE** the case.

² The Court need not address any other dismissal ground raised by Defendants.

ORDER ENTERED at Augusta, Georgia, this 25th day of April, 2022.


UNITED STATES DISTRICT JUDGE